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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,139	04/24/2001	Seiichi Ishitsuka	MA-481-US	4407

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

EXAMINER

HAQ, NAEEM U

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,139

Applicant(s)

ISHITSUKA, SEIICHI

Examiner

Naeem Haq

Art Unit

3625

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election of claims 1 and 7-9 without traverse is hereby acknowledged.

All other claims are hereby withdrawn from consideration.

Claim Objections

Claim 1 is objected to because of the following informalities: This claim recites the limitations "the user terminal", "the specification", "the purchased merchandise", "the seller", "the supplier", and "the credit level record". The Examiner notes there is insufficient antecedent basis for these limitations in the claim. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: This claim recites the limitations "the applicable merchandise hit" and "the seller hit". The Examiner notes there is insufficient antecedent basis for these limitations in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 and 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

These claims make only nominal use of technology (i.e. receiving from a user terminal) and are therefore not within the technological arts. *The claimed invention must utilize technology in a non-trivial manner (Ex parte Bowman, 61 USPQ2d, 1665,1671 (Bd. Pat. App. & Inter. 2001))*. Although Bowman is not precedential, it has been cited for its analysis.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For this reason, the claimed invention is not clear. At best, the Examiner understands the claimed invention as follows:

Art Unit: 3625

Allowing a user to place an order for a merchandise from a seller; checking the seller's credit level; executing the order if the seller's credit level is acceptable; charging a service charge for executing the order.

Referring to claim 8, this claim recites the limitation "good credit level". The term "good" is a relative term which renders the claim indefinite. The term "good" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Referring to claim 9, this claim recites the limitation "...search said communication lines..." It is unclear to the Examiner what this limitation means.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (US 6,269,343 B1).

Referring to claim 1, Pallakoff discloses a purchase method for purchase via communication lines comprising the steps of: a step which, by receiving from the user terminal the specification of the purchased merchandise via communication lines, accepts the request for purchase of said merchandise (column 3, lines 22-36; Figure 2,

Art Unit: 3625

item "23"; column 4, lines 10 and 11, lines 45-52; column 7, lines 15-30); a step to refer to the credit level record of said seller for transactions (column 5, lines 46-63); a step to purchase the merchandise requested for purchase from said seller and to deliver the merchandise to said user (column 5, lines 38-45); a step to manage charging for the purchase service provided to said user (column 5, lines 38-45). Pallakoff does not disclose receiving from the user terminal the specification of the seller selling said merchandise. However, Pallakoff discloses that sellers must register with the central controller and undergo a credit worthiness check prior to making offers available to buyers (column 5, line 46 – column 6, lines 26). Furthermore, Pallakoff discloses that buyers purchase a merchandise by joining the Buying Team of an offer made by a seller. (column 4, lines 43-52). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have the buyer specify the seller of the merchandise in the Team Buying of Pallakoff. One of ordinary skill in the art would have been motivated to do so in order to allow a buyer to purchase a merchandise from a well known seller. Regarding the limitation "agent purchase", the Examiner notes that the Applicant's specification does not provide a definition for this term. Therefore the Examiner will take the broadest reasonable interpretation in light of the Applicant's specification and assume that the term "agent purchase" refers to any entity that facilitates a transaction between a buyer and seller. Pallakoff discloses a central controller (Figure 9, item "93") that facilitates a transaction between buyers and sellers.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff (US 6,269,343 B1) in view of Giovannoli (US 5,758,328) and further in view of Official Notice.

Referring to claims 7-9, Pallakoff discloses the limitations of claim 1 as noted above. Furthermore Pallakoff discloses recording the credit level information for each seller to a database and searching the database for the credit level record of said seller (column 5, lines 46-63). Pallakoff does not disclose classifying sellers by category of the merchandise and searching the list of categories. However, Giovannoli discloses a central controller that maintains preprogrammed menu (i.e. list) information to classify products and services into categories (column 4, lines 4-34). Giovannoli also allows a user to search the menu list (column 4, lines 4-34). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the invention of Pallakoff. One of ordinary skill in the art would have been motivated to do so in order to correlate product and service identifications for buyer and vendors as taught by Giovannoli (column 4, lines 26-29). Pallakoff and Giovannoli do not teach executing the requested purchase when a sufficiently good credit level is recorded. However, Official Notice is taken that it is old and well known in the art to execute a transaction only when good credit level is recorded. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate this feature into the cited prior art. One of ordinary skill in the art would have been motivated to do so in order to ensure that a party was able to honor its agreement in a transaction.

Art Unit: 3625

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

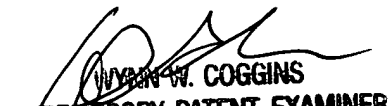
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (703)-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naeem Haq, Patent Examiner
Art Unit 3625

February 7, 2005



WYNN W. COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600